

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

DEBRA MASSIE,

Plaintiff,

v.

CIVIL ACTION NO. 5:11-cv-00218

UNITED STATES OF AMERICA,

Defendant.

**MEMORANDUM OPINION AND ORDER  
ADOPTING PROPOSED FINDINGS AND RECOMMENDATION**

On April 4, 2011, Plaintiff, by counsel, filed a Complaint (Document 1) claiming an entitlement to monetary damages pursuant to the Federal Tort Claims Act, U.S.C. §§ 1346(b) and 2671, *et seq.*, for medical malpractice under the West Virginia Medical Professional Liability Act, W. Va. Code §§ 55-7B-1, *et seq.* By Order (Document 22) entered on September 23, 2011, the Court granted Plaintiff's former lawyers' Motion to Withdraw as Counsel, and Plaintiff began acting *pro se*. Thus, pursuant to the Standing Order (Document 3) entered on April 4, 2011, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B).

On April 9, 2012, the United States filed a *Motion for Summary Judgment* (Document 28) along with their supportive memorandum (Document 29). Although given ample time, Plaintiff failed to file a response to the Defendant's motion. (*See* Document 30). On July 10, 2012, the

Magistrate Judge submitted Proposed Findings and Recommendation (“PF&R”) (Document 33), wherein it is recommended that this Court grant Defendant’s Motion for Summary Judgment, dismiss Plaintiff’s Complaint, and remove this matter from the Court’s docket.

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the PF&R were due no later than July 27, 2012. To date, neither party filed objections.

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the Proposed Findings and Recommendation (Document 33), and **ORDERS** that the *United States’ Motion for Summary Judgment* (Document 28) be **GRANTED** and Plaintiff’s Complaint (Document 1) be **DISMISSED** and **REMOVED** from the docket.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and to any unrepresented party.

ENTER: July 31, 2012



IRENE C. BERGER  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF WEST VIRGINIA